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| 10/052,730      | 01/19/2002  | Lou Marrero          | 064832.000005       | 3224             |

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| EXAMINER |
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CHIN, RANDALL E

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| ART UNIT | PAPER NUMBER |
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1744

DATE MAILED: 02/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/052,730

Applicant(s)

MARRERO, LOU

Examiner

Randall Chin

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 82-101 is/are pending in the application.
- 4a) Of the above claim(s) 92-101 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 82,85-87 and 89-91 is/are rejected.
- 7) ☒ Claim(s) 83,84 and 88 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other:

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 92-101 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the Paper filed January 16, 2004.

Applicant's election without traverse of claims 82-91 (Figs. 2-5, 9 and 10) in the Paper filed January 16, 2004 is acknowledged.

### ***Information Disclosure Statement***

2. The information referring to the Airtrax Inc. website brochure of 1/17/02 cited in the IDS of 1/19/02 has not been considered and a copy is respectfully requested from Applicant.

### ***Drawings***

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: Numerals **86** as shown in Fig. 10.

A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

5. Claims 82, 85-87, 89 and 90 are rejected under 35 U.S.C. 102(a) as being anticipated by Marcussen '465.

The patent to Marcussen '465 teaches a "maintenance tool" comprising a tool housing 12 (Fig. 1), a pair of cleaning brushes 32, 34 having at least portions thereof mounted in said tool housing, and driving means 46 connected to said tool housing for rotatably driving said pair of cleaning brushes in opposite rotational directions (col. 4, lines 58-59). As for the tool being for maintaining aircraft, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

As for claim 85, there is fluid supplying means (Figs. 1-3) connected to said tool housing for supplying fluid for cleaning thereof.

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As for claim 86, the fluid supplying means includes a plurality of fluid supply lines defined by delivery ports 28 (Fig. 3) connected to an inner surface of said tool housing and a fluid supply 22 connected to said plurality of fluid supply lines.

As for claim 87, there is suctioning means 56 connected to said tool housing for suctioning fluid adjacent the maintenance tool (Figs. 2-3)

As for claim 89, the driving means includes at least one motor 46 positioned within said tool housing and positioned between portions of said pair of cleaning brushes mounted in said tool housing as can be seen from Fig. 1.

As for claim 90, the driving means 46 further includes a drive assembly 48, 50, 52, 53, 54 (Fig. 2) connected to said at least one motor and at least one end of each of said pair of cleaning brushes (col. 4, lines 16-19).

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 91 is rejected under 35 U.S.C. 103(a) as being unpatentable over Marcussen '465.

Marcussen's drive motor 46 includes a drive shaft 48 wherein each of said pair of cleaning brushes is driven by a belt 54 in conjunction with a series of pulleys as best shown in Fig. 2. Further, Marcussen's brushes are driven in counter-rotating or opposite

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rotational directions. It is the position of the Examiner that whether one utilizes a pulley or gear drive arrangement would be obvious to one skilled in the art since either arrangement is well known and can merely depend on availability of materials and economical considerations. The main function of counter-rotation of the brushes is the same.

***Allowable Subject Matter***

8. Claims 83, 84 and 88 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Waldhauser, Dufour, Bivens, Rensch, and Windmeisser are pertinent to various suctioning devices and brushes with inflatable cores.

10. Any inquiry concerning this communication or earlier communication from the Examiner should be directed to Randall Chin whose telephone number is (571) 272-1270. The Examiner can normally be reached on Monday through Thursday and every other Friday.

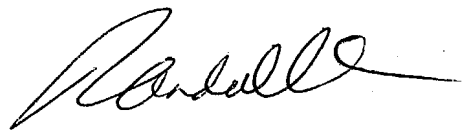
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If attempts to reach the Examiner are unsuccessful, the Examiner's supervisor, Robert Warden, can be reached at (571) 272-1281. The number for Technology Center 1700 is (571) 272-1700.

The central fax number for the organization where this application or proceeding is assigned is (703) 872-9306.



R. Chin



Randall Chin  
Primary Examiner  
Art Unit 1744